

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 8, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 11OD-102

Oahu

Set Aside to Department of Health for Public Health Purposes; Issuance of Management
Right-of-Entry; Waipahu, Ewa, Oahu, Tax Map Key: (1) 9-4-008:017

APPLICANT:

Department of Health (DOH)

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Waipahu, Ewa, Oahu, identified by Tax Map Key:
(1) 9-4-008:017, as shown on the attached map labeled Exhibit 1.

AREA:

1.048 acres, more or less.

ZONING:

State Land Use District: Urban

City and County of Honolulu LUO: R-5

TRUST LAND STATUS:

Acquired after Statehood, i.e.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Currently, the DOH operates an adult mental health facility on the subject site.

PURPOSE:

Public health purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation.", as included in Exhibit 2.

APPLICANT REQUIREMENTS:

None

[Note: The map and legal description for the subject property had been previously prepared and is available for review.]

REMARKS:

As of June 21, 1963, by way of a quitclaim deed, the United States of America had conditionally released and granted the subject property to the State of Hawaii, reserving its right to retake possession of it in the event of a national emergency. The subject deed was also conditioned upon the State of Hawaii utilizing the subject property for public health purposes, to include a period of twenty years.

Further, as of August 23, 1999, by way of a deed of release, the United States of America had waived its right to the State of Hawaii to retake possession and control of the subject property for national emergency purposes. By this time, the said twenty-year period had also elapsed.

By way of a letter dated January 21, 1965, attached as Exhibit 3, the former Chairman of the Board of Land and Natural Resources had written his response addressing the former Comptroller of the Department of Accounting and General Services. Within the framework of his written response, he had explained that his proposal for the issuance of an executive order would establish clear jurisdiction over the subject property for management purposes.

To date, for reasons unknown to staff, the executive order was never consummated.

Staff believes that the highest and best use for the subject property should continue as it currently exists, for use as an adult mental health facility, renamed as the Waipahu Clubhouse. Members have utilized the facility for activities and skills training. Staff understands that the DOH intends to make improvements to the building and to the parking lot areas on the subject property.

After having had previous discussions with the applicant regarding their intent to continue with the ongoing use of the subject property for public health purposes, staff brings this request to the Board for public land disposition purposes.

DOH has had the opportunity to review the subject request, and granted their approval. No requests were routed to other government and/or community agencies for their comments since the subject request is for housekeeping purposes.

Prior to the issuance of the Governor's executive order, staff recommends the Board authorize the issuance a management right-of-entry to DOH.

There are no other pertinent issues or concerns, and staff has no objection to the subject request.


RECOMMENDATION:

That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Health under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;

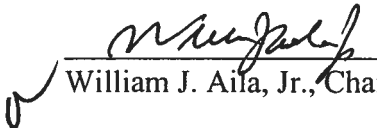
- C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of a management right-of-entry to the Department of Health covering the subject area for public health purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

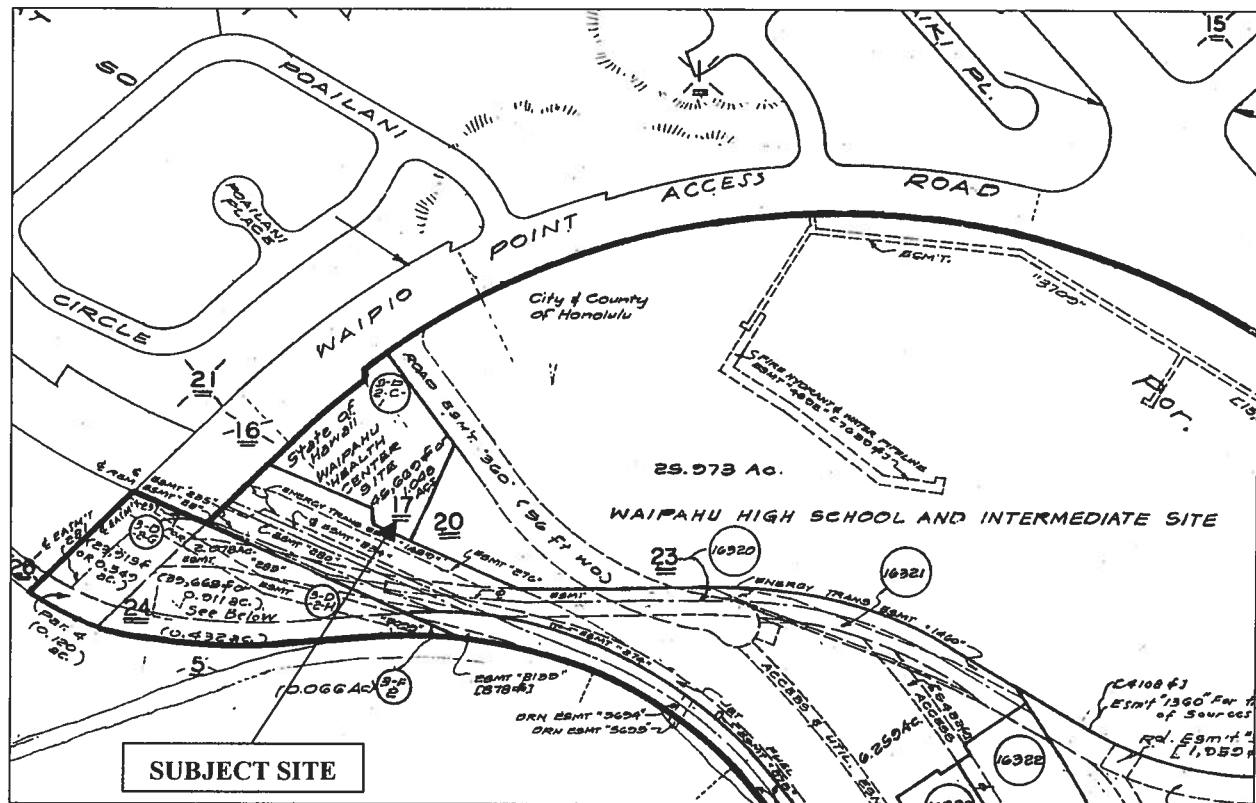


Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



TAX MAP KEY: (1) 9-4-008:017

EXHIBIT 1

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Set Aside to Department of Health for Public Health Purposes

Project / Reference No.: PSF 11OD-102

Project Location: Waipahu, Ewa, Oahu, Tax Map Key: (1) 9-4-008:017

Project Description: Set Aside to the Department of Health


Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

The subject property is intended for the continued and ongoing use of the Department of Health to operate its Waipahu Clubhouse for public health purposes. As such, staff believes that the said use of the subject property for public health purposes would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties Not applicable

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila Jr., Chairperson

6/28/11

Date

EXHIBIT 2

January 21, 1965

Honorable V. U. Marciel
Comptroller
Department of Accounting and
General Services
State of Hawaii
Honolulu, Hawaii

Dear Sir:

Subject: Executive Order for Waipahu Health Center Site

Reference is made to your memorandum of January 22, 1964 recommending that the issuance of an executive order on the subject site be held in abeyance pending the expiration of the twenty-year restriction imposed on the land by the Department of Health, Education and Welfare.

We beg to differ with you. We believe that an executive order either to the Department of Health or to the Department of Accounting and General Services should be issued to fix management jurisdiction on the site. We are more inclined to set aside the site to the Department of Health for health purposes in that any subsequent dispositions affecting the site must have the prior concurrence of the using agency who is covered by an executive order. This would tend to protect the tenure of the Department of Health in compliance with the restriction imposed on the State by the Federal Government. However, we would appreciate your comments on this matter.

In further clarification of your memorandum, we should mention the fact that the State does have title to the site and

EXHIBIT "3"

Honorable V. U. Marciel

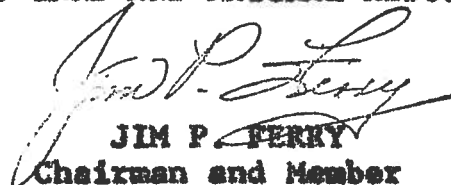
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January 21, 1965


not a twenty-year contract. Although the fee title is conditional rather than absolute, this should not in any way reduce the force and effect of an executive order.

Very truly yours,

BOARD OF LAND AND NATURAL RESOURCES



JIM P. FERRY
Chairman and Member



HS:jf

cc: Department of Health